

1 AN ACT in relation to transportation.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of
8 alcohol, other drug or drugs, intoxicating compound or
9 compounds or any combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood
13 or breath is 0.08 or more based on the definition of
14 blood and breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating
17 compound or combination of intoxicating compounds to a
18 degree that renders the person incapable of driving
19 safely;

20 (4) under the influence of any other drug or
21 combination of drugs to a degree that renders the person
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other
24 drug or drugs, or intoxicating compound or compounds to a
25 degree that renders the person incapable of safely
26 driving; or

27 (6) there is any amount of a drug, substance, or
28 compound in the person's breath, blood, or urine
29 resulting from the unlawful use or consumption of
30 cannabis listed in the Cannabis Control Act, a controlled
31 substance listed in the Illinois Controlled Substances

1 Act, or an intoxicating compound listed in the Use of
2 Intoxicating Compounds Act.

3 (b) The fact that any person charged with violating this
4 Section is or has been legally entitled to use alcohol, other
5 drug or drugs, or intoxicating compound or compounds, or any
6 combination thereof, shall not constitute a defense against
7 any charge of violating this Section.

8 (c) Except as provided under paragraphs (c-3), (c-4),
9 and (d) of this Section, every person convicted of violating
10 this Section or a similar provision of a local ordinance,
11 shall be guilty of a Class A misdemeanor and, in addition to
12 any other criminal or administrative action, for any second
13 conviction of violating this Section or a similar provision
14 of a law of another state or local ordinance committed within
15 5 years of a previous violation of this Section or a similar
16 provision of a local ordinance shall be mandatorily sentenced
17 to a minimum of 5 days of imprisonment or assigned to a
18 minimum of 30 days of community service as may be determined
19 by the court. Every person convicted of violating this
20 Section or a similar provision of a local ordinance shall be
21 subject to an additional mandatory minimum fine of \$500 and
22 an additional mandatory 5 days of community service in a
23 program benefiting children if the person committed a
24 violation of paragraph (a) or a similar provision of a local
25 ordinance while transporting a person under age 16. Every
26 person convicted a second time for violating this Section or
27 a similar provision of a local ordinance within 5 years of a
28 previous violation of this Section or a similar provision of
29 a law of another state or local ordinance shall be subject to
30 an additional mandatory minimum fine of \$500 and an
31 additional 10 days of mandatory community service in a
32 program benefiting children if the current offense was
33 committed while transporting a person under age 16. The
34 imprisonment or assignment under this subsection shall not be

1 subject to suspension nor shall the person be eligible for
2 probation in order to reduce the sentence or assignment.

3 (c-1) (1) A person who violates this Section during a
4 period in which his or her driving privileges are revoked
5 or suspended, where the revocation or suspension was for
6 a violation of this Section, Section 11-501.1, paragraph
7 (b) of Section 11-401, or Section 9-3 of the Criminal
8 Code of 1961 is guilty of a Class 4 felony.

9 (2) A person who violates this Section a third time
10 during a period in which his or her driving privileges
11 are revoked or suspended where the revocation or
12 suspension was for a violation of this Section, Section
13 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
14 of the Criminal Code of 1961 is guilty of a Class 3
15 felony.

16 (3) A person who violates this Section a fourth or
17 subsequent time during a period in which his or her
18 driving privileges are revoked or suspended where the
19 revocation or suspension was for a violation of this
20 Section, Section 11-501.1, paragraph (b) of Section
21 11-401, or Section 9-3 of the Criminal Code of 1961 is
22 guilty of a Class 2 felony.

23 (c-2) (Blank).

24 (c-3) Every person convicted of violating this Section
25 or a similar provision of a local ordinance who had a child
26 under age 16 in the vehicle at the time of the offense shall
27 have his or her punishment under this Act enhanced by 2 days
28 of imprisonment for a first offense, 10 days of imprisonment
29 for a second offense, 30 days of imprisonment for a third
30 offense, and 90 days of imprisonment for a fourth or
31 subsequent offense, in addition to the fine and community
32 service required under subsection (c) and the possible
33 imprisonment required under subsection (d). The imprisonment
34 or assignment under this subsection shall not be subject to

1 suspension nor shall the person be eligible for probation in
2 order to reduce the sentence or assignment.

3 (c-4) When a person is convicted of violating Section
4 11-501 of this Code or a similar provision of a local
5 ordinance, the following penalties apply when his or her
6 blood, breath, or urine was .16 or more based on the
7 definition of blood, breath, or urine units in Section
8 11-501.2 or when that person is convicted of violating this
9 Section while transporting a child under the age of 16:

10 (1) A person who is convicted of violating
11 subsection (a) of Section 11-501 of this Code a first
12 time, in addition to any other penalty that may be
13 imposed under subsection (c), is subject to a mandatory
14 minimum of 100 hours of community service and a minimum
15 fine of \$500.

16 (2) A person who is convicted of violating
17 subsection (a) of Section 11-501 of this Code a second
18 time within 10 years, in addition to any other penalty
19 that may be imposed under subsection (c), is subject to a
20 mandatory minimum of 2 days of imprisonment and a minimum
21 fine of \$1,250.

22 (3) A person who is convicted of violating
23 subsection (a) of Section 11-501 of this Code a third
24 time within 20 years is guilty of a Class 4 felony and,
25 in addition to any other penalty that may be imposed
26 under subsection (c), is subject to a mandatory minimum
27 of 90 days of imprisonment and a minimum fine of \$2,500.

28 (4) A person who is convicted of violating this
29 subsection (c-4) a fourth or subsequent time is guilty of
30 a Class 2 felony and, in addition to any other penalty
31 that may be imposed under subsection (c), is not eligible
32 for a sentence of probation or conditional discharge and
33 is subject to a minimum fine of \$2,500.

34 (d) (1) Every person convicted of committing a violation

1 of this Section shall be guilty of aggravated driving
 2 under the influence of alcohol, other drug or drugs, or
 3 intoxicating compound or compounds, or any combination
 4 thereof if:

5 (A) the person committed a violation of this
 6 Section, or a similar provision of a law of another
 7 state or a local ordinance when the cause of action
 8 is the same as or substantially similar to this
 9 Section, for the third or subsequent time;

10 (B) the person committed a violation of
 11 paragraph (a) while driving a school bus with
 12 children on board;

13 (C) the person in committing a violation of
 14 paragraph (a) was involved in a motor vehicle
 15 accident that resulted in great bodily harm or
 16 permanent disability or disfigurement to another,
 17 when the violation was a proximate cause of the
 18 injuries;

19 (D) the person committed a violation of
 20 paragraph (a) for a second time and has been
 21 previously convicted of violating Section 9-3 of the
 22 Criminal Code of 1961 relating to reckless homicide
 23 in which the person was determined to have been
 24 under the influence of alcohol, other drug or drugs,
 25 or intoxicating compound or compounds as an element
 26 of the offense or the person has previously been
 27 convicted under subparagraph (C) of this paragraph
 28 (1); or

29 (E) the person, in committing a violation of
 30 paragraph (a) while driving at any speed in a school
 31 speed zone at a time when a speed limit of 20 miles
 32 per hour was in effect under subsection (a) of
 33 Section 11-605 of this Code, was involved in a motor
 34 vehicle accident that resulted in bodily harm, other

1 than great bodily harm or permanent disability or
 2 disfigurement, to another person, when the violation
 3 of paragraph (a) was a proximate cause of the bodily
 4 harm; or-

5 (F) the person, in committing a violation of
 6 paragraph (a), was involved in a motor vehicle
 7 accident that resulted in the death of another
 8 person, when the violation of paragraph (a) was a
 9 proximate cause of the death.

10 (2) Except as provided in this paragraph (2),
 11 aggravated driving under the influence of alcohol, other
 12 drug or drugs, or intoxicating compound or compounds, or
 13 any combination thereof is a Class 4 felony. For a
 14 violation of subparagraph (C) of paragraph (1) of this
 15 subsection (d), the defendant, if sentenced to a term of
 16 imprisonment, shall be sentenced to not less than one
 17 year nor more than 12 years. Aggravated driving under the
 18 influence of alcohol, other drug or drugs, or
 19 intoxicating compound or compounds, or any combination
 20 thereof as defined in subparagraph (F) of paragraph (1)
 21 of this subsection (d) is a Class 2 felony, for which the
 22 defendant, if sentenced to a term of imprisonment, shall
 23 be sentenced to: (A) a term of imprisonment of not less
 24 than 3 years and not more than 13 years if the violation
 25 resulted in the death of one person; or (B) a term of
 26 imprisonment of not less than 6 years and not more than
 27 26 years if the violation resulted in the deaths of 2 or
 28 more persons. For any prosecution under this subsection
 29 (d), a certified copy of the driving abstract of the
 30 defendant shall be admitted as proof of any prior
 31 conviction.

32 (e) After a finding of guilt and prior to any final
 33 sentencing, or an order for supervision, for an offense based
 34 upon an arrest for a violation of this Section or a similar

1 provision of a local ordinance, individuals shall be required
2 to undergo a professional evaluation to determine if an
3 alcohol, drug, or intoxicating compound abuse problem exists
4 and the extent of the problem, and undergo the imposition of
5 treatment as appropriate. Programs conducting these
6 evaluations shall be licensed by the Department of Human
7 Services. The cost of any professional evaluation shall be
8 paid for by the individual required to undergo the
9 professional evaluation.

10 (f) Every person found guilty of violating this Section,
11 whose operation of a motor vehicle while in violation of this
12 Section proximately caused any incident resulting in an
13 appropriate emergency response, shall be liable for the
14 expense of an emergency response as provided under Section
15 5-5-3 of the Unified Code of Corrections.

16 (g) The Secretary of State shall revoke the driving
17 privileges of any person convicted under this Section or a
18 similar provision of a local ordinance.

19 (h) Every person sentenced under paragraph (2) or (3) of
20 subsection (c-1) of this Section or subsection (d) of this
21 Section and who receives a term of probation or conditional
22 discharge shall be required to serve a minimum term of either
23 60 days community service or 10 days of imprisonment as a
24 condition of the probation or conditional discharge. This
25 mandatory minimum term of imprisonment or assignment of
26 community service shall not be suspended and shall not be
27 subject to reduction by the court.

28 (i) The Secretary of State shall require the use of
29 ignition interlock devices on all vehicles owned by an
30 individual who has been convicted of a second or subsequent
31 offense of this Section or a similar provision of a local
32 ordinance. The Secretary shall establish by rule and
33 regulation the procedures for certification and use of the
34 interlock system.

1 (j) In addition to any other penalties and liabilities,
2 a person who is found guilty of or pleads guilty to violating
3 this Section, including any person placed on court
4 supervision for violating this Section, shall be fined \$100,
5 payable to the circuit clerk, who shall distribute the money
6 to the law enforcement agency that made the arrest. If the
7 person has been previously convicted of violating this
8 Section or a similar provision of a local ordinance, the fine
9 shall be \$200. In the event that more than one agency is
10 responsible for the arrest, the \$100 or \$200 shall be shared
11 equally. Any moneys received by a law enforcement agency
12 under this subsection (j) shall be used to purchase law
13 enforcement equipment that will assist in the prevention of
14 alcohol related criminal violence throughout the State. This
15 shall include, but is not limited to, in-car video cameras,
16 radar and laser speed detection devices, and alcohol breath
17 testers. Any moneys received by the Department of State
18 Police under this subsection (j) shall be deposited into the
19 State Police DUI Fund and shall be used to purchase law
20 enforcement equipment that will assist in the prevention of
21 alcohol related criminal violence throughout the State.

22 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99;
23 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff.
24 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429,
25 eff. 1-1-02; 92-431, eff. 1-1-02; 92-651, eff. 7-11-02.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.